

WCPSS Guidance Pertaining to Immigrant (including non-documented) Students Rights and Protections

Current national conversations have raised concern in many communities regarding the safety of immigrants, including undocumented immigrant students in our schools. The following guidance is intended to provide clarity to the rights and responsibilities of both students and staff pertaining to these matters.

In 1982, in *Plyer vs. Doe*, the U.S. Supreme Court held that public school districts cannot deny immigrant students from receiving a free public education. In particular, the Supreme Court concluded that all persons in the United States, including undocumented aliens, are entitled to equal protection of the laws and that denying a free public education to undocumented students would impose a “lifetime hardship” on “innocent children” that is not justified by any substantial state or federal interest.

Furthermore, federal anti-discrimination law and Wake County Board of Education policy (especially Policy 1710/4021/7230) specifically prohibit discrimination, harassment and bullying on the basis of national origin.

Despite the above legal and policy protections, and despite a longstanding [Immigrations and Custom Enforcement \(ICE\) policy](#) that imposes limits on immigration enforcement actions in schools and other “sensitive locations,” concerns have been expressed about the possibility of ICE agents entering a school site in order to locate and/or detain an undocumented child or obtain student information regarding student’s family’s immigration status. Should such a situation arise in any WCPSS facility, the school response should be directed by Wake County Board of Education [Policy](#) 5120 (Relationship with Law Enforcement), which requires that:

- 1. Law enforcement officers are expected to question students away from school regarding non-school related matters unless the officers have a warrant or unless questioning, searching, or arresting a student on school property at that time is necessary, in the discretion of the officers, for the success of a law enforcement investigation or to prevent injury or crime.*
- 2. When law enforcement officers must question or arrest a student at school, attempts should be made to avoid embarrassing the student before teachers and peers and to avoid disrupting the educational program of the student and the school unless immediate intervention by the officer is necessary to prevent injury, a serious crime, or flight of the student.*
- 3. If law enforcement officers have a warrant for the student's arrest, they must be permitted to arrest the student; however, whenever*

possible the arrest should be conducted in the principal's office out of the view of other students.

- 4. Law enforcement officers should remain in the administration office while school personnel seek out the student unless immediate intervention by the officer is necessary to prevent injury, a serious crime, or flight of the student. In circumstances where the officer needs to seek out a student, the principal/designee shall accompany the officer unless the officer instructs otherwise as a result of a potentially dangerous situation.*
- 5. Law enforcement officers' questioning of a student is expected to be conducted so as to not cause the student to miss class time, unless questioning is determined to be time critical for the success of a law enforcement investigation or to prevent injury or crime.*
- 6. Any questioning by law enforcement officers shall ordinarily be conducted in a private room or area where confidentiality can be maintained. This should be an area removed from observation by or contact with other students and school personnel other than the principal/designee.*
- 7. Except in cases of suspected child abuse or neglect, or when the parent is implicated in the investigation, an administrator at the student's school must make reasonable attempts to contact the student's parent or guardian.*
- 8. In cases where the parent or guardian cannot be reached and the questioning is conducted without parental notification, the principal/designee must be present during the questioning unless law enforcement directs otherwise for safety reasons. Presence of a principal/designee does not in any way impact law enforcement's duty, if applicable in the situation, to comply with the juvenile's Miranda rights established in [General Statutes Chapter 7B](#).*
- 9. While interacting with students on school premises, the law enforcement officer must abide by state and federal law governing use of force, interrogations, searches, and arrests.*
- 10. School administrators must maintain and provide to the superintendent's office a written record of when law enforcement officers who are not SROs come onto school property to search, arrest, or question a student. The record must include:*
 - a. The name of the law enforcement officer;*
 - b. The agency of the law enforcement officer;*

c. The name(s) of the student(s);

d. The action(s) taken by the law enforcement officer while on campus, including but not limited to, questioning the student, searching the student, or escorting the student off school grounds; and

e. The date of the encounter.

In addition to the above, principals should notify the Superintendent of any attempt, with or without a warrant, by immigration law enforcement officials to enter school property or to obtain any student or family records.

Further, School resource officers (SROs) are assigned duties as specified in the “[School Resource Officer Program Memorandum of Understanding](#).” This Memorandum of Understanding does not assign SROs any immigration enforcement duties.

Finally, WCPSS will continue to strictly follow federal and state law protecting the confidentiality of student records and will not disclose any such records to ICE agents except when required to do so under the law (e.g., with a subpoena and prior notice to the parents or guardian).